

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DUKHAN IQRAA JIHAD MUMIN,)) Plaintiff,)) v.)) MAYO, et al.,)) Defendants.)	8:12CV313 MEMORANDUM AND ORDER
---	--

This matter is before the court on Defendants Jason Mayo and Lancaster County, Nebraska’s, Motion to Lift Stay and Reinstate Motion to Dismiss (Filing No. [34](#)). The court will reopen the case and order Defendants to answer or otherwise respond to the Amended Complaint within 21 days.

I. BACKGROUND

Plaintiff filed his Complaint (Filing No. [1](#)) in this matter on September 4, 2012, against the Lancaster County Sheriff’s Office, the Lincoln Police Department, the Lancaster County Attorney’s Office, two law enforcement officers, and a Lancaster County deputy county attorney. Plaintiff alleged, among other things, that he was illegally arrested and his vehicle was illegally searched on June 16, 2011. Officers claimed to have “found crack cocaine” during their search of the vehicle. Thereafter, the State of Nebraska instituted a state court criminal proceeding against Plaintiff for possession of a controlled substance with intent to deliver, *State of Nebraska v. Mumin*, Case No. CR11-954.

On October 26, 2012, the Lancaster County Defendants filed a Motion to Dismiss the Complaint. (Filing No. [10](#).) Four days later, the City of Lincoln Defendants filed a Motion to Dismiss. (Filing No. [14](#).) Plaintiff opposed the City of Lincoln Defendants’ motion (Filing No. [16](#)), and also filed a Motion for Leave to File

an Amended Complaint (Filing No. [17](#)). On November 27, 2012, the Lancaster County Defendants filed a Motion to Dismiss Plaintiff's Amended Complaint. (Filing No. [18](#).)

On March 26, 2013, the court stayed this matter until Plaintiff's state court criminal proceeding, *Nebraska v. Mumin*, Case No. CR11-954, and any appeal therefrom, was resolved. (Filing No. [22 at CM/ECF p. 7](#).) The court denied Defendants' motions to dismiss as moot in light of its decision to stay the case. In addition, the court granted Plaintiff's request to file an amended complaint.¹

On August 6, 2014, the Lancaster County Defendants filed the instant Motion to Lift Stay and Reinstate Motion to Dismiss. (Filing No. [34](#).) On August 21, 2014, Plaintiff filed a "Motion in Opposition to Defendant's Motion to Dismiss" (Filing No. [36](#)) and a Motion to Recuse (Filing No. [37](#)).

II. DISCUSSION

The Lancaster County Defendants set forth in their motion that Plaintiff's state criminal prosecution has been resolved, and they ask that this case be reopened for disposition. They also ask the court to "reinstate the County Defendants' previously filed motion to dismiss." (Filing No. [34](#).) The court will grant the motion in part. The court will direct the clerk's office to reopen the case. However, Defendants will be required to answer or otherwise respond to Plaintiff's Amended Complaint (Filing No. [17](#)). Defendants may resubmit motions to dismiss, but in order to avoid piecemeal litigation, the court will not simply "reinstate" their previously filed motions to dismiss. Defendants' motions should reflect the *current* status of

¹The Amended Complaint is currently docketed as a "Motion for Leave to Amend regarding Complaint." (See Filing No. [17](#).) The court will direct the clerk's office to update the docket sheet to reflect that Filing Number 17 is Plaintiff's Amended Complaint.

Plaintiff's criminal prosecution in state court.

IT IS THEREFORE ORDERED that:

1. Lancaster County Defendants' Motion to Lift Stay and Reinstate Motion to Dismiss (Filing No. [34](#)) is granted in part and denied in part.
2. The clerk's office is directed to reopen this case.
3. Defendants have 21 days from the date of this Memorandum and Order to answer or otherwise respond to Plaintiff's Amended Complaint. The clerk's office is directed to set the following pro se case management deadline: December 1, 2014: Check for answer or other response to amended complaint.
4. Plaintiff's Motion in Opposition to Defendants' Motion to Dismiss (Filing No. [36](#)) is denied as moot.
5. The clerk's office is directed to update the court's records to reflect that Filing Number 17 is Plaintiff's Amended Complaint.

DATED this 30th day of October, 2014.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.